

### REMARKS/ARGUMENTS

The Office Actions mailed September 5, 2005 and April 21, 2006 have been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Claims 39-82 are currently pending. Claims 39, 44, 46, 55, 58, 63, 65, 74, 77, 78, 79, 80, 81, and 82 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes may be found in the Specification at page 15 line 7 to page 16 line 1, and FIG. 8. No new matter has been added.

#### The First 35 U.S.C. § 112, Second Paragraph Rejection

Claims 39, 43, 46, 50, 58, 62, 65, 69, 77, 78, 80, and 81 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention.<sup>1</sup> This objection is respectfully traversed.

The Examiner states:

Claims 39, 43, 46, 50, 58, 62, 65, 69, 77, 78, 80, and 81 recite conditional language. ... Conditional language inherently comprises at least two conditions: the "if" and the "if not". The Applicant's claims, however, are silent regarding how Applicant's system is to perform if the "if not" condition holds. Therefore, one of ordinary skill is hindered from determining the scope and how to use said system.<sup>2</sup>

The Applicant respectfully disagrees. The MPEP provides that the

[b]readth of a claim is not to be equated with indefiniteness. If the scope of the subject matter embraced by the claims is clear, and if applicants have not otherwise indicated that they intend the invention to be of a scope different from that defined in the claims, then the claims comply with 35 U.S.C. 112, second paragraph."<sup>3</sup>

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<sup>1</sup> Office Action dated September 5, 2005, ¶ 4 (a).

<sup>2</sup> Office Action dated September 5, 2005, ¶ 4 (a).

<sup>3</sup> MPEP § 2173.04; *In re Miller*, 441 F.2d 689, 169 USPQ 597 (CCPA 1971). (emphasis added)

Furthermore, the MPEP provides that if alternative elements are positively recited in the specification, they may be explicitly *excluded* in the claims.<sup>4</sup> The mere absence of a positive recitation is not basis for an exclusion.<sup>5</sup> Thus, the Applicant maintains that it is not necessary to provide for instructions on how the system acts for all possible branches of the decision tree. Claims 39, 46, 58, 65, 78, 80, and 81 specify a certain action is to be performed “if an approve signal is provided”. In order for the claims to be anticipated by a reference, the reference therefore must teach that action being performed if an approve signal is provided. The Applicant maintains it is not necessary to specifically recite what actions are undertaken if an approve signal is not received. Similarly, Claims 43, 50, 62, and 69 recite certain actions are to be performed “if the client system has proper network configuration and registry settings to accomplish communication with the electronic network.” In order for the claims to be anticipated by a reference, the reference therefore must teach that action being performed if client system has proper network configuration and registry settings to accomplish communication with the electronic network. The Applicant maintains it is not necessary to specifically recite what actions are undertaken if the client system does not have proper network configuration and registry settings to accomplish communication with the electronic network.

#### The Second 35 U.S.C. § 112, Second Paragraph Rejection

Claims 44 and 63 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter

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<sup>4</sup> MPEP § 2173.05(i); See also *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977) (“[the] specification, having described the whole, necessarily described the part remaining.”); See also *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983), *aff’d mem.*, 738 F.2d 453 (Fed. Cir. 1984).

<sup>5</sup> MPEP § 2173.05(i).

applicant regards as the invention.<sup>6</sup> With this Amendment, Claims 44 and 63 have been modified to more distinctly claim embodiments of the present invention. The Applicant submits amended Claims 44 and 63 satisfy the statutory requirements.

Dependent Claims 40-42, 44, 45, 47-49, 51-57, 59-61, 63, 64, 66-68, and 70-73

As to dependent claims 40-42, 44, 45, 47-49, 51-57, 59-61, 63, 64, 66-68, and 70-73, the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

The First 35 U.S.C. § 103 Rejection

Claims 39-57 and 65-82 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Budow et al.<sup>7</sup> in view of Lewis<sup>8</sup>, among which claims 39, 46, 55, 65, 74, 77, and 78-82 are independent claims.<sup>9</sup> This rejection is respectfully traversed.

According to the Manual of Patent Examining Procedure (M.P.E.P.),

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.<sup>10</sup>

With this Amendment, independent claims 39, 46, 55, 58, 65, 74, and 77-82 have been modified to recite, if a previous session using said client software completed unsuccessfully, (1)

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<sup>6</sup> Office Action dated September 5, 2005, ¶ 4 (a).

<sup>7</sup> U.S. Patent No. 5,661,517.

<sup>8</sup> U.S. Patent No. 5,612,730.

<sup>9</sup> Office Action dated September 5, 2005, ¶ 6.

offering a user an option of either continuing or restoring system settings of said client system, (2) receiving from said the user an indication responsive to the offering, and determining whether to restore the system settings based at least in part on the indication. This is not taught or suggested by the prior art of record. Accordingly, the Applicant respectfully submits the rejection of Claims 39-57 and 65-82 under 35 U.S.C. § 103 is unsupported by the art and must be withdrawn.

Dependent Claims 43-45, 47, 50-52, 56-57, 66, 69-71, and 75-76

As to dependent Claims 43-45, 47, 50-52, 56-57, 66, 69-71, and 75-76, the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

The Second 35 U.S.C. § 103 Rejection

Claims 58-64 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Budow et al. in view of Ahmad<sup>11</sup>, among which Claim 58 is an independent claim. This rejection is respectfully traversed.

With this Amendment, independent claim 58 has been modified to recite, if a previous session using said client software completed unsuccessfully, (1) offering a user an option of either continuing or restoring system settings of said client system, (2) receiving from said the user an indication responsive to the offering, and determining whether to restore the system settings based at least in part on the indication. This is not taught or suggested by the prior art of

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<sup>10</sup> MPEP § 2143.

<sup>11</sup> U.S. Patent No. 5,565,908.

record. Accordingly, the Applicant respectfully submits the rejection of Claim 58 under 35 U.S.C. § 103 is unsupported by the art and must be withdrawn.

Dependent Claims 59-64

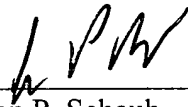
As to dependent Claims 59-64, the argument set forth above is equally applicable here. The base claim being allowable, the dependent claims must also be allowable.

Conclusion

It is believed that this Response places the above-identified patent application into condition for allowance. Early favorable consideration of this Response is earnestly solicited. If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

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